

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALBERT SILVA,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS,

Defendant.

No. 2:25-cv-1591-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff's original complaint, ECF No. 1.

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). This provision also applies if the plaintiff was incarcerated at the time the action was initiated even if the litigant was subsequently released from custody. See *Olivas v. Nevada ex rel. Dep't of Corr.*, 856 F.3d 1281, 1282 (9th Cir. 2017). The Court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2).

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1           Moreover, the Federal Rules of Civil Procedure require that complaints contain a  
2 “... short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R.  
3 Civ. P. 8(a)(2). This means that claims must be stated simply, concisely, and directly. See  
4 McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) (referring to Fed. R. Civ. P. 8(e)(1)).  
5 These rules are satisfied if the complaint gives the defendant fair notice of the plaintiff’s claim  
6 and the grounds upon which it rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir. 1996).  
7 Because Plaintiff must allege with at least some degree of particularity overt acts by specific  
8 defendants which support the claims, vague and conclusory allegations fail to satisfy this  
9 standard. Additionally, it is impossible for the Court to conduct the screening required by law  
10 when the allegations are vague and conclusory.

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## 12           I. PLAINTIFF’S ALLEGATIONS

13           Plaintiff, an inmate at Folsom State Prison, names as the only defendant  
14 “Department of Corrections,” elsewhere referred to in the complaint as the “Department of  
15 Corrections and Rehabilitation,” presumably meaning the California Department of Corrections  
16 and Rehabilitation. See ECF No. 1. Plaintiff claims that his central file incorrectly contains an  
17 “R-suffix,” which prevents Plaintiff from participating in certain programs and which can result  
18 in a risk to his safety from other inmates who know of the classification. See id. at 3. Plaintiff  
19 states that an “R-suffix” labels an inmate as a sex offender. See id. Plaintiff states that his arrest  
20 and related records have been ordered by the state court to be sealed but that, despite this order,  
21 the prison has failed to destroy these records and, as a result, his central file lists him as a sex  
22 offender with an “R-suffix.” See id. Plaintiff seeks injunctive relief in the form of an order  
23 directing the prison to destroy the sealed records and remove the “R-suffix” classification from  
24 his central file. See id. at 4.

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## II. DISCUSSION

2 Plaintiff's action cannot proceed as against the only named defendant,  
3 "Department of Corrections," which appears to refer to the California Department of Corrections  
4 and Rehabilitation. The Eleventh Amendment prohibits federal courts from hearing suits brought  
5 against a state both by its own citizens, as well as by citizens of other states. See Brooks v.  
6 Sulphur Springs Valley Elec. Coop., 951 F.2d 1050, 1053 (9th Cir. 1991). This prohibition  
7 extends to suits against states themselves, and to suits against state agencies. See Lucas v. Dep't  
8 of Corr., 66 F.3d 245, 248 (9th Cir. 1995) (per curiam); Taylor v. List, 880 F.2d 1040, 1045 (9th  
9 Cir. 1989). A state's agency responsible for incarceration and correction of prisoners is a state  
10 agency for purposes of the Eleventh Amendment. See Alabama v. Pugh, 438 U.S. 781, 782  
11 (1978) (per curiam); Hale v. Arizona, 993 F.2d 1387, 1398-99 (9th Cir. 1993) (en banc).

Plaintiff will be provided an opportunity to amend his complaint to name the appropriate prison official(s) who can answer to Plaintiff's claim regarding documents in his central file inappropriately reflecting an "R-suffix" classification.

### III. CONCLUSION

17 Because it is possible that the deficiencies identified in this order may be cured by  
18 amending the complaint, Plaintiff is entitled to leave to amend prior to dismissal of the entire  
19 action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is  
20 informed that, as a general rule, an amended complaint supersedes the original complaint. See  
21 Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). Thus, following dismissal with leave to  
22 amend, all claims alleged in the original complaint which are not alleged in the amended  
23 complaint are waived. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987). Therefore, if  
24 Plaintiff amends the complaint, the Court cannot refer to the prior pleading in order to make  
25 Plaintiff's amended complaint complete. See Local Rule 220. An amended complaint must be  
26 complete in itself without reference to any prior pleading. See id.

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If Plaintiff chooses to amend the complaint, Plaintiff must demonstrate how the conditions complained of have resulted in a deprivation of Plaintiff's constitutional rights. See Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how each named defendant is involved and must set forth some affirmative link or connection between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

Finally, Plaintiff is warned that failure to file an amended complaint within the time provided in this order may be grounds for dismissal of this action. See Ferdik, 963 F.2d at 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply with Rule 8 may, in the Court's discretion, be dismissed with prejudice pursuant to Rule 41(b). See Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981).

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's complaint is dismissed with leave to amend; and
2. Plaintiff shall file a first amended complaint within 30 days of the date of service of this order.

Dated: June 13, 2025



DENNIS M. COTA  
UNITED STATES MAGISTRATE JUDGE

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